

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

STACIE TUPPER,

Plaintiff,

v.

CAROLYN W COLVIN, Acting
Commissioner of Social Security,

Defendant.

CASE NO. 2:16-CV-00379-DWC

ORDER DENYING MOTION TO
APPOINT COUNSEL

Plaintiff Stacie Tupper, O/B/O Minor Child B.T., proceeding *pro se* and *in forma pauperis*, filed this action pursuant to 42 U.S.C. § 405(g). *See* Dkt. 1, 3. Currently pending in this action is Plaintiff's Application for Court-Appointed Counsel. Dkt. 6.

In "exceptional circumstances," a district court may appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1) (formerly 28 U.S.C. § 1915(d)). *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991); *Rand v. Roland*, 113F.3d 1520, 1525 (9th Cir. 1997), *overruled on other grounds*, 154 F.3d 952 (9th Cir. 1998); *see* 28 U.S.C. § 1915(e)(1). To decide whether exceptional circumstances exist, the Court must evaluate both "the likelihood of success

1 on the merits [and] the ability of the [plaintiff] to articulate [her] claims *pro se* in light of the
2 complexity of the legal issues involved.” *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir.
3 1986) (*quoting Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). A plaintiff must plead
4 facts showing she has an insufficient grasp of her case or the legal issues involved and an
5 inadequate ability to articulate the factual basis of her claims. *Agyeman v. Corrections Corp. of*
6 *America*, 390 F.3d 1101, 1103 (9th Cir. 2004).

7 Here, Plaintiff submitted an Application for Court-Appointed Counsel form indicating
8 she has contacted two attorneys regarding this case. Dkt. 6. She provided no reasons explaining
9 why she is requesting court appointed counsel. *Id.* The Court notes this case does not involve
10 complex facts or law, and Plaintiff has not shown an inability to articulate the factual basis of her
11 claims in a fashion understandable to the Court. *See* Dkt. 3. In fact, in her Complaint, Plaintiff
12 identified the legal standard and the alleged errors. *See id.* at p. 2. Plaintiff has also not shown
13 she is likely to succeed on the merits of her case.

14 As Plaintiff has not shown exceptional circumstances exist in this case, Plaintiff’s
15 Application for Court-Appointed Counsel is denied without prejudice.

16 Dated this 18th day of April, 2016.

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18 David W. Christel
19 United States Magistrate Judge
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